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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/407,839	09/29/1999	Erkki Yli-juuti	017.37357X00	3287

22907 7590 04/11/2006

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EXAMINER

NGUYEN, TU X

ART UNIT	PAPER NUMBER
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2618

DATE MAILED: 04/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/407,839

Applicant(s)

YLI-JUUTI ET AL.

Examiner

Tu X. Nguyen

Art Unit

2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 45,46 and 48-65 is/are pending in the application.
- 4a) Of the above claim(s) 1-44 and 47 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 45,46 and 48-65 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/20/05, 2/4/04, 8/23/01</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's arguments, filed 10/20/05 with respect to claims 45, 53, 60, 61-64, have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. Claims 45-46, 49-54, 56-65, are rejected under 35 U.S.C. 102(e) as being anticipated by Mackintosh et al. (US Patent 6,317,784).

Regarding claims 45, 53 and 60-64, Mackintosh et al. disclose a method of providing an identification of a musical piece to a person listening with a receiver to a radio station which is playing the musical piece, said method comprising the steps of:

- (a) providing a data base storing data for identifying musical pieces (col.5 lines 50-59),
- (b) receiving a telephone message (see col.15 lines 1-4) describing the musical piece containing at least a portion of the musical piece which has been received by the receiver (see col.2 lines 59-61) and identifying a receiving location to which identification of the musical piece is to be sent (see col.10 lines 40-45);

Art Unit: 2684

(c) interrogating the data base to identify the musical piece by comparing the received at least a portion of the musical piece with musical pieces stored in the data base to identified the music piece heard by the person in the database (see col.5 line 50 through col.6 line 55); and

(d) sending to the identified receiving location a message including the identification of the musical piece (see col.6 lines 14-54, col.15 lines 1-4).

Regarding claims 46, 54 and 65, Mackintosh et al. disclose step (c) comprises comparing the musical piece with musical pieces stored in the data base (see col.5 lines 56-59).

Regarding claim 49, 56, Mackintosh et al. disclose tuning a radio receiver to the identified radio station, receiving the radio broadcast (see col.12 lines 46-47).

Regarding claim 50, Mackintosh et al. disclose sending the message to an identified telephone (see col.15 lines 1-4).

Regarding claims 51, 58, Mackintosh et al. disclose sending the message to an electronic mail address (see col.15 lines 1-4).

Regarding claims 52, 59, Mackintosh et al. disclose sending an order for the musical piece to an order shipping center (see col.14 lines 4-15).

Regarding claim 57, Mackintosh et al. disclose transmitting means comprises a second telephone (see col.1 lines 47-48 and col.15 lines 1-4).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2684


5. Claims 48 and 55, are rejected under 35 U.S.C. 103(a) as being unpatentable over Mackintosh et al. in view of Chen (US Patent 5,991,737).

Regarding claims 48 and 55, Mackintosh et al. disclose a system and method for coordinating history information relating to broadcast materials (see col.1 lines 20-22). However Mackintosh et al. fail to disclose receiving the time that the radio station played the musical piece.

Chen discloses receiving the time that the radio station played the musical piece (see col.5 lines 41-42). Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Mackintosh with the above teaching of Chen in order to provide retrieving the associated content based on a given date and time of the broadcast provider.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed Tu Nguyen whose telephone number is 571-272-7883. The examiner can normally be reached on Monday through Friday from 6:30AM-2:30PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban, can be reached at (571) 272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


March 6, 2006


3/20/2006
NGUYENT.VO
PRIMARY EXAMINER